IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA SOUTHERN DIVISION

No. 7:21-CV-00196-M

E. DWIGHT AND SYLVIA JOHNSON,)	
Plaintiffs,)))) ORDER
V.)	ORDER
TIMOTHY FUSSELL,)	
Defendant.)	

This matter comes before the court on Defendant's pro se "Response in Opposition to Plaintiff's Motion for Default Judgment and Motion to Dismiss Plaintiff's Case" [DE 45]. Defendant argues that dismissal is warranted because he did not owe Plaintiffs a fiduciary duty and because their Complaint "is devoid of any substantive legal or factual basis." DE 41 at 1-3. The court considered similar arguments from Defendant over two years ago when he (through counsel) filed a motion to dismiss. DE 13. The court granted in part and denied in part that prior motion, and specifically found that the Complaint did "not plausibly state a fiduciary relationship between" Plaintiffs and Defendant. DE 22 at 14. Accordingly, Defendant's renewed motion to dismiss is largely moot and provides no basis to dismiss Plaintiffs' remaining pending claims. The motion [DE 45] is therefore DENIED.

Defendant must now file an answer to Plaintiff's Complaint within 14 days. Fed. R. Civ. P. 12(a)(4)(A). Defendant is advised that his filing must conform to the Federal Rules of Civil Procedure and this court's Local Rules. *See Ballard v. Carlson*, 882 F.2d 93, 96 (4th Cir. 1989) (emphasizing that pro se "litigants are subject to the time requirements and respect for court orders without which effective judicial administration would be impossible"). Failure to file an answer

will subject Defendant to entry of default, both by operation of the Federal Rules and as a sanction for noncompliance with this order. If Defendant timely files an answer, Plaintiffs may elect to proceed with discovery or seek summary judgment.

SO ORDERED this ______ day of April, 2025.

RICHARD E. MYERS II

CHIEF UNITED STATES DISTRICT JUDGE